



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED
11-02-07
04:59 PM

Application of California-American Water Company (U 210 W) to Decrease Revenues for Water Service in its Coronado District by (\$73,100) or (0.46%) in 2008 and Increase Revenues by \$266,200 or 1.67% in 2009 and \$260,900 or 1.61% in 2010	A.07-01-036
Application of California-American Water Company (U 210 W) to Increase Revenues for Water Service in its Larkfield District by \$1,272,000 or 61.91% in 2008, \$134,300 or 3.94% in 2009 and \$129,900 or 3.67% in 2010 Under the Current Rate Design or Decrease Revenues by (\$742,200) or (36.12%) in 2008 and Increase Revenues by \$50,000 or 3.72% in 2009 and \$63,500 or 4.55% in 2010 Under the Proposed Rate Design	A.07-01-037
Application of California-American Water Company (U 210 W) to Increase Revenues for Water Service in its Sacramento District by \$8,966,900 or 33.89% in 2008, \$1,905,700 or 5.36% in 2009, and \$1,860,700 or 4.97% in 2010 Under the Current Rate Design or by \$10,981,000 or 41.50% in 2008, \$1,925,900 or 5.11% in 2009, and \$1,845,600 or 4.66% in 2010 Under the Proposed Rate Design	A.07-01-038
Application of California-American Water Company (U 210 W) to Increase Revenues for Water Service in its Village District by \$1,537,300 or 7.43% in 2008, \$243,400 or 1.08% in 2009, and \$232,900 or 1.02% in 2010	A.07-01-039

**MOTION OF CALIFORNIA-AMERICAN WATER COMPANY FOR
INTERIM RATE RELIEF**

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Date: November 2, 2007

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**MOTION OF CALIFORNIA-AMERICAN WATER COMPANY FOR
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I. INTRODUCTION

In accordance with Rule 11.1 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, Section 455.2(b) of the California Public Utilities Code, and the Rate Case Plan applicable to this proceeding, Decision ("D.") 04-06-018, California-American Water Company ("California American Water") hereby files this request for interim rate relief in the above-referenced proceeding.¹ (*Order Instituting Rulemaking on the*

¹ Pub. Util. Code § 455.2(b) provides, "If the commission's decision is not effective in accordance with subdivision (a), the applicant may file a tariff implementing interim rates that may be increased by an amount equal to the rate of inflation as compared to existing rates. The interim rates shall be effective on the first day of the first test year in the general rate case application. These interim rates shall be subject to refund and shall be adjusted upward or downward back to the interim rate effective date, consistent with the final rates adopted by the commission. The commission may authorize a lesser increase in interim rates if the commission finds the rates to be in the public
(continued...)"

Commission's Own Motion to Evaluate Existing Practices and Policies for Processing General Rate Cases and to Revise the General Rate Case Plan for Class A Water Companies, D.04-06-018, (2004) 2004 Cal. PUC LEXIS 276 ("Rate Case Plan").)

California American Water has recently been informed that the Commission will not issue a proposed decision on the 2007 general rate case revenue requirements "in a manner that ensures that the commission's decision becomes effective on the first day of the first test year [January 1, 2008]," as required by Section 455.2(a). As such, California American Water requests that it be authorized to implement interim rates, effective January 1, 2008, and subject to refund or surcharge based on the rates ultimately approved by the Commission.² As demonstrated below, interim rate relief is warranted because (1) California American Water is entitled to relief under the California Public Utilities Code; (2) Commission case law supports granting the requested relief; and (3) the requested relief is in the public interest.

II. PROCEDURAL HISTORY

A. Procedural Schedule for the 2007 GRC Applications

On January 22, 2007, California American Water filed four separate general rate case applications for its Coronado District (A.07-01-036), Larkfield District (A.07-01-037), Sacramento District (A.07-01-038) and Village District (A.07-01-039) (collectively, the "2007 GRC Applications"). The Assigned Commissioner and Administrative Law Judge (ALJ)

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interest. If the presiding officer in the case determines that the commission's decision cannot become effective on the first day of the first test year due to actions by the water corporation, the presiding officer or commission may require a different effective date for the interim rates or final rates." Unless otherwise provided, all statutory references are to the California Public Utilities Code.

² Given that the interim rates will be subject to true-up to account for the difference between the rate of inflation and the final rates authorized by the Commission, the requested interim rate relief will protect customers from paying too much in districts subject to a rate decrease. By way of example, California American Water has requested a rate decrease in the Coronado District for 2008. Even if interim rates are not implemented in the Coronado District, the relief requested in this motion ensures that the final rates adopted by the Commission would relate back to the effective date of the interim rates.

consolidated the four proceedings into a single proceeding and set a procedural schedule contemplating a final decision by November 1, 2007, with new rates effective January 1, 2008.³

On May 1, 2007, the Assigned ALJ granted the Division of Ratepayer Advocates' (DRA) motion to bifurcate the proceeding into two phases to address the revenue requirements in the first phase and the rate design in the second phase of the proceeding.⁴ Notwithstanding the fact that the proceeding was bifurcated, the procedural schedule for the revenue requirement phase of the proceeding remained the same and provided sufficient time to process the case, issue a final decision on the revenue requirements in November 2007, and have new rates in effect by January 1, 2008. While California American Water understands that delays are sometimes unavoidable, the requested interim relief should be granted because the delay in this proceeding is not due to the actions of California American Water.

B. Settlement Agreement Between California American Water and DRA on Many of the Revenue Requirement Issues

In accordance with the Scoping Memo's directive to the parties to meet and confer regarding settlement, California American Water engaged in early settlement discussions with all interested parties to the proceeding, including intervenor Mark West Area Community Services Committee (MWACSC), to explore the possibility of settling the 2007 GRC Applications. As a result of these collaborative efforts, California American Water and DRA reached a settlement agreement on all but four issues relating to the revenue requirements.⁵

³ *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge*, dated April 11, 2007 ("Scoping Memo"), pp. 2, 4.

⁴ See Administrative Law Judge's Ruling, dated May 1, 2007 ("ALJ Ruling"), p. 1. On April 13, 2007, the Division of Ratepayer Advocates (DRA) moved to bifurcate the proceeding into two phases and move the consideration of rate design and a Water Rate Adjustment Mechanism (WRAM) into the second phase of the proceeding. DRA provided the assigned Commissioner with a proposed revised schedule, which made no changes to the immediate schedule applicable to the revenue requirement portion of the proceeding and commenced the second phase on rate design in August 2007.

⁵ The unsettled issues include: (A) the authorized return on equity; (B) Special Request #1: proposal for the Infrastructure System Replacement Surcharge ("ISRS"); (C) Special Request #2: the proposed consolidation of the Sacramento and Larkfield Districts for ratemaking purposes; and (D) the disputed Administrative & General expenses, which were comprised of Regulatory Expense and Employee Pension and Benefits.

These four unresolved issues were addressed in opening and reply briefs, filed by the parties on June 28, 2007 and July 3, 2007, respectively.⁶ Even though DRA and California American Water settled many of the issues in this phase of the proceeding, MWACSC did not join in the settlement agreement. California American Water and DRA filed the proposed settlement agreement on July 6, 2007 with adequate time for a final decision on the revenue requirements to be issued in November 2007, with new rates effective on January 1, 2008.⁷

On October 2, 2007, California American Water filed a motion to reopen the record to receive into evidence certain technical corrections to the settlement tables.⁸ The receipt of the late-filed exhibits into the record will not affect the settlement positions of California American Water and DRA. Nor does it produce any change to the terms of the Settlement Agreement between California American Water and DRA.⁹ As such, the receipt of these corrected settlement tables into the record should not have caused any material delay in the issuance of the final decision.

III. JUSTIFICATION FOR RELIEF

A. California American Water Is Entitled to Relief under the California Public Utilities Code

Section 455.2 provides for interim rate relief when the Commission is unable to issue its final decision on a general rate case application of a water corporation with greater than 10,000 service connections in a manner that ensures that the decision becomes effective on the first day of the first test year in the application. The first day of the first test year for California

⁶ See Opening Brief of California-American Water Company on the Revenue Requirements, filed June 28, 2007; Reply Brief of California-American Water Company on the Revenue Requirements, filed July 7, 2007.

⁷ Motion of California-American Water Company and the Division of Ratepayer Advocates for Adoption of Settlement Agreements as to Certain Issues on the Revenue Requirements; Settlement Agreements Attached, filed July 6, 2007 ("Motion to Adopt Settlement Agreement").

⁸ Motion of California-American Water Company to Reopen the Record to File Late-Filed Exhibits, filed October 2, 2007 ("Motion to Receive Late-Filed Exhibits").

⁹ Motion to Receive Late-Filed Exhibits, pp. 1-2.

American Water's general rate case application for the Coronado, Larkfield, Sacramento and Village Districts is January 1, 2008. As noted above, the procedural schedule for the revenue requirement portion of this case was proceeding with a proposed decision expected in September 2007 and the Commission's vote on a final decision in November 2007, in conformance with Section 455.2. However, due to circumstances not the fault of California American Water, it will not be possible for a Commission vote on a final decision "in a manner that ensures that the decision becomes effective" on January 1, 2008.

California American Water has made a substantial showing in its 2007 GRC Applications justifying a rate increase that is at least equal to the rate of inflation. As such, the Commission should authorize California American Water under Section 455.2(b) to "file a tariff implementing interim rates that may be increased by an amount equal to the rate of inflation compared to existing rates." These interim rates should be effective January 1, 2008. Any overcollection or undercollection of rates, plus interest, will be subject to refund or surcharge, respectively, in accordance with Section 455.2.

B. Commission Case Law Supports Granting Interim Rate Relief

The Rate Case Plan requires the Commission to grant interim rate relief pursuant to Section 455.2 when the delay is not "due to actions by the water corporation."¹⁰ The Commission has routinely granted interim rate relief to water utilities when a final decision was not expected until after the first day of the first test year and the delay was "not attributable" to the water utility.¹¹ The Commission has granted interim rate relief even where it found that the

¹⁰ D.04-06-018, 2004 Cal. PUC LEXIS 276, *22.

¹¹ *In re Application of Suburban Water Systems (U 339-W) for Authority to Increase Rates Charged for Water Service by \$5,633,937 or 12.1% in Fiscal 2006-2007, \$1,640,549 or 3.1% in Fiscal 2007-2008, and \$1,364,551 or 2.5% in Fiscal 2008-2009*, D.06-06-046; *In re Application of California-American Water Company for an order authorizing it to increase its rates for water service in its Sacramento District to increase revenues by \$ 3,160.8 or 14.35% in the year 2005, by \$ 2,158.6 or 8.48% in the year 2006, and by \$ 1,202.2 or 4.35% in the year 2007, et al.*, D.05-02-007 (2005) 2005 Cal. PUC LEXIS 59; *In re Application of the Southern California Water Company (U 133 W) for an Order Authorizing It to Increase its Rates for Water Service in 2004 in its Region 1 Customer Service Areas*, D.04-04-011 (2004) 2004 Cal. PUC LEXIS 146; *In re Application of San Jose Water Company (U 168 W) for an Order Authorizing it to Increase Rates Charged for Water Service*, D.03-12-007 (2003) 2003 Cal. PUC

(continued...)

utility was partially responsible for the delay in the procedural schedule so long as the utility's actions were not the primary cause of the procedural delay.¹²

Here, the delayed issuance of a proposed decision, which prevents the Commission from issuing a final decision so that new rates will be effective by January 1, 2008, is not the fault of California American Water. Up to the point of the intended date scheduled for filing the proposed decision, each of the milestones were timely met. Additionally, California American Water and DRA submitted a settlement agreement in July 2007 addressing all but four issues in the Settlement Agreements on the revenue requirements.¹³ As discussed above, California American Water's motion to reopen the record to admit into the record technical corrections did not alter the underlying settlement agreement between California American

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LEXIS 582; *In re Application of Apple Valley Ranchos Water Company (U 346 W) for Authority to Increase Rates (as authorized by NOI 02-03-017)*, D.02-12-063 (2002) 2002 Cal. PUC LEXIS 918.

¹² In D.05-12-024, the Commission granted interim rate relief to the utility, despite finding the utility partially responsible for the procedural delay in the proceeding, because the "primary causes of procedural delay in this proceeding is the complexity of the applications, especially the 16 special requests Cal-Am submitted for Monterey, combined with the expedited schedule set in D.04-06-018." (D.05-12-024, *In re Application of California-American Water Company (U 210 W) for an order authorizing it to increase its rates for water service in its Monterey District to increase revenues by \$9,456,100 or 32.88% in the year 2006; \$1,894,100 or 4.95% in the year 2007; and \$1,574,600 or 3.92% in the year 2008; and for an order authorizing sixteen Special Requests with revenue requirements of \$3,815,900 in the year 2006, \$5,622,300 in the year 2007, and \$8,720,500 in the year 2008; the total increase in rates for water service combined with the sixteen Special Requests could increase revenues by \$13,272,000 or 46.16% in the year 2006; \$7,516,400 or 17.86% in the year 2007; and \$10,295,100 or 20.73% in the year 2008, et al.*, 2005 Cal. PUC LEXIS 545, *8, *10 (Finding of Fact No. 3) (emphasis added).)

Finding that California American Water had used its best efforts to minimize any further delay, the Commission concluded that the resulting delayed procedural schedule "should not result in either the utility foregoing revenue necessary for just and reasonable rates or the ratepayers paying less (or more) than reasonable rates." *Id.*, p. 7. See also *Application of California Water Service Company (U 60 W), a Corporation, for an Order Authorizing It to Increase its Rates Charged for Water Service at Each of its Operating Districts to Recover Increased Operating Expenditures at its General Office and Related Matters*, D.03-04-033, (2003) 2003 Cal. PUC LEXIS 235, *7 (granting interim rate relief even though California Water Service Company was responsible in part for the delay, stating, "although CWS is responsible for some of the delay, the facts CWS cites makes it clear that it is not responsible for all of the delay.").

¹³ The Settlement Agreements were attached as Exhibits A through D to the Motion of California-American Water Company and the Division of Ratepayer Advocates for Adoption of Settlement Agreements as to Certain Issues on the Revenue Requirements; Settlement Agreements Attached (filed July 6, 2007).

Water and DRA, and therefore should not have delayed the issuance of the proposed decision. The Commission's delay in issuing the proposed decision on the revenue requirements for the 2007 GRC Applications was due to issues that were completely out of the control of California American Water. Accordingly, the Commission should find that California American Water is not responsible for the delay in this proceeding and authorize the recovery of interim rates effective January 1, 2008, subject to refund or surcharge.

C. Interim Rate Relief is in the Public Interest

The Commission's Rate Case Plan recognizes that interim rate relief should be granted to water utilities in pending GRC's when interim rate relief "is in the public interest."¹⁴ Granting the relief requested in this motion is consistent with prior Commission decisions in which the Commission determined that interim rate relief was reasonable to ensure that water utilities experiencing delays in their rate cases were not financially harmed. Most notably, in D.03-12-007, the Commission held that "[i]t is reasonable to ensure, to the extent possible, that the company is not financially harmed for [procedural delays in general rate case proceedings]."¹⁵ The Commission should similarly ensure that California American Water is not penalized for procedural delays that will prevent California American Water from implementing new rates on January 1, 2008.

The Commission has also recognized that procedural delays "should not result in either the utility foregoing revenues necessary for just and reasonable rates or the ratepayers less (or more) than reasonable rates."¹⁶ The Commission noted that it had previously found "no policy justification for allowing ratepayers to gain from the deferral of such increases, where such gain would be at the expense of the utility and its shareholders, and where such deferral

¹⁴ D.04-06-018, 2004 Cal. PUC LEXIS 276, *22.

¹⁵ D.03-12-007, 2003 Cal. PUC LEXIS 582, **3-4 (finding that procedural delays were made to accommodate DRA and as such the water utility should not be punished for cooperating with DRA).

¹⁶ D.03-04-033, 2003 Cal. PUC LEXIS 235, *5.

resulted from delays in processing GRCs.”¹⁷ As these cases recognize, the public interest is served by granting interim rate relief in situations similar to that of California American Water here. Plainly, the public interest is poorly served if the Commission does not authorize interim rates when a delay in the procedural schedule was not caused by the utility applicant. Accordingly, the Commission should authorize the Company’s recovery of interim rates effective January 1, 2008.

IV. CONCLUSION

For all of the foregoing reasons, California American Water requests that, should the final decision on the revenue requirements not become effective on January 1, 2008, the Commission should authorize California American Water to implement interim rates in accordance with Section 455.2 of the Public Utilities Code and Commission case law.

Dated: November 2, 2007

Respectfully submitted,

By: /s/ Sarah E. Leeper

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¹⁷ *Id.*, citing *Application of Pacific Gas and Electric for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective January 1, 1999*, D.98-12-078, (1998) 84 CPUC 2d 253 (granting in part a request to increase rates on an interim basis because the proceeding was governed by the Rate Case Plan and the delay resulted from circumstances largely beyond any one party’s control).

PROOF OF SERVICE

I, Michelle Chavez, declare as follows:

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to this action. My business address is STEEFEL, LEVITT & WEISS, One Embarcadero Center, 30th Floor, San Francisco, California 94111-3719. On November 2, 2007, I served the within:

Motion of California-American Water Company For Interim Rate Relief

on the interested parties in this action addressed as follows:

See attached service list




(BY ELECTRONIC SERVICE) By transmitting an electronic notice of the availability of such document(s) on a FTP (file transfer protocol) site electronically from Steefel, Levitt & Weiss, San Francisco, California, to the electronic mail addresses listed below. I am readily familiar with the practices of Steefel, Levitt & Weiss for transmitting electronic mail. Said practice also complies with Rule 1.10 of the Public Utilities Commission of the State of California and all protocols described therein.



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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on November 2, 2007, at San Francisco, California.


Michelle Chavez

SERVICE LIST

A. 07-01-036, A. 07-01-037, A. 07-01-038, A. 07-01-039

Updated 08/16/07

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